Prepared by the North Dakota Legislative Council
staff for the Judiciary Committee
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COURT UNIFICATION STUDY - FUNDING OF THE CLERK OF DISTRICT COURT OFFICE - BACKGROUND MEMORANDUM

House Concurrent Resolution No. 3001 (copy attached as Appendix "A") directs a study of the feasibility and desirability of funding the office of the clerk of district court through the unified judicial system.

The Legislative Council's interim Budget Committee on Government Finance recommended this resolution as a result of its study of the unified court system with emphasis on the distribution of court revenues and the allocation of the costs of the system between the counties and the state. That committee made the recommendation because the original concept for court unification included the clerks of district court and the committee concluded that this would be an appropriate time to study the addition of the clerks into the unified judicial system.

Senate Concurrent Resolution No. 4045 (copy attached as Appendix "B") directs a study of the state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification, and the effective provision of judicial services to the citizens of this state. Supporters of the resolution testified at the standing committee hearing that issues relating to the clerks of court have arisen because the clerks are paid by the county but are a part of the state court system. The testimony also indicated unresolved issues regarding the implementation of court unification still exist.

BACKGROUND

District Courts

Section 1 of Article VI of the Constitution of North Dakota, which was approved September 7, 1976, provides:

> The judicial power of the state is vested in a unified judicial system consisting of a supreme court, a district court, and such other courts as may be provided by law.

Section 8 of Article VI provides that the district court has original jurisdiction of all causes, except as otherwise provided by law, and such appellate jurisdiction as may be provided by law or by rule of the Supreme Court.

Section 9 of Article VI requires the state to be divided into judicial districts by order of the Supreme Court. In 1979 the Supreme Court divided the state into seven judicial districts. In each judicial district there is a presiding judge who supervises all court services of all courts in the geographical area of the district. The duties of the presiding judge, as established by the Supreme Court, include convening regular meetings of the judges within the district to discuss issues of common concern, assigning cases among the judges of the district, and assigning judges within the district in cases of demand for a change of judge.

Section 9 of Article VI also provides that the electors of the district choose district judges for terms of office of six years.

Section 10 of Article VI requires district court judges to be citizens of the United States and residents of North Dakota, be learned in the law, and to possess any additional qualifications prescribed by law.

County Courts

In 1981 the Legislative Assembly enacted legislation providing for one county court in each county instead of the multilevel system of county courts, county justice courts, and county courts of increased jurisdiction as existed prior to 1981. The 1981 legislation also provided that county judges must be law-trained and full time and provided for the assumption by the state of many district court expenses. The provisions relating to the county courts are codified as North Dakota Century Code (NDCC) Chapter 27-07.1.

North Dakota Century Code Section 27-07.1-17 provides that county courts have jurisdiction over civil cases involving $10,000 or less; criminal misdemeanors, infractions, and traffic cases; small claims cases involving $5,000 or less; probate, testamentary, guardianship, and mental health commitment proceedings; appeals from municipal courts; and any cases assigned by the presiding district judge of the judicial district in which the county is located.

1991 Court Unification Legislation

In 1991 the Legislative Assembly enacted House Bill No. 1517, which provided a transition process for establishing a single trial court of general jurisdiction. The unification of the court system was to be accomplished through the elimination of county courts and the creation of additional district court judgeships from county court judgeships. In 1991 there were 53 district and county court judges. Under unification the total number of district court

judgeships must be reduced to 42 before January 1, 2001. The Supreme Court began eliminating judgeships and by January 2, 1995, the primary implementation date for consolidation of trial courts, the number of judgeships was reduced to 47. The most recent judgeship position eliminated occurred in January 1996, leaving 46 remaining judgeships.

PREVIOUS STUDIES AND RELATED LEGISLATION

1989-90 Interim

House Concurrent Resolution No. 3033 (1989) directed the Legislative Council to study the adequacy of the state's elected officials' compensation. The study was assigned to the Legislative Council's interim Budget Committee on Government Administration. Under this study, the committee studied the issue of establishing a single trial court of general jurisdiction as a means to achieve statewide equality with respect to judicial compensation.

The Budget Committee on Government Administration determined that to achieve statewide equality within the judiciary, a unified court system must be established. That committee recommended 1991 Senate Bill No. 2026 to abolish county courts as of January 1, 1995; to provide for the establishment of a single trial court system consisting of eight judicial districts; and to reduce the number of district court judgeships from 53 to 42 by December 31, 1998. The bill also provided that on January 1, 1995, county court judges elected in 1994 would become interim district court judges with limited original jurisdiction. If any interim district court judge were elected to a district court judgeship or when the interim district court judgeship was abolished, 80 percent of the court revenue deposited in the county treasury would be deposited in the state general fund. Although the bill failed to pass the Senate, its provisions were essentially enacted as House Bill No. 1517, except that the number of district court judgeships was set at 44.

1991-92 Interim

During the 1991-92 interim, the Legislative Council's Court Services Committee, pursuant to House Concurrent Resolution No. 3046 and Senate Concurrent Resolution No. 4043, considered the unification of the state's judicial system. House Concurrent Resolution No. 3046 directed a study of the problems associated with the unification of the state's judicial system into a one-level trial system and Senate Concurrent Resolution No. 4043 directed the Legislative Council to review and monitor the implementation of 1991 House Bill Nos. 1516 and 1517 to determine and ensure that a unified, consolidated court system is accomplished. In addition, Section 206 of 1991 House Bill No. 1517 provided that it was the intent of the Legislative Assembly that the 1991-92 interim legislative committee assigned to review and monitor the implementation of House Bill No. 1517, in conjunction with the office of the State Court Administrator, perform a detailed analysis of the fiscal implications of the bill prior to the convening of the next two Legislative Assemblies. Section 206 also stated it was the intent of the Legislative Assembly that the transition to a single trial court of general jurisdiction include revision of the distribution of court revenues and legislative appropriations from the state general fund to provide a fair and equitable allocation of expenditures between the counties and the state.

The interim committee recommended two bills that were enacted in 1993. Senate Bill No. 2032 provided that the authority of the Supreme Court to abolish the office of a district court judge may be exercised from July 1, 1999, until December 31, 2000, if on July 1, 1999, the number of district judges is more than 42 rather than 44.

Senate Bill No. 2032 provided that, effective January 2, 1995, not more than 70 percent of the chambers of the district judges may be located in cities with a population of more than 10,000 rather than a population of more than 7,500. The bill also provided that each district judge must reside within the district where the judge's chambers are located rather than within the county where the chambers are located.

The committee also recommended Senate Bill No. 2034 which would have provided that the new judgeships established on January 2, 1995, under 1991 House Bill No. 1517, would be interim district court judgeships with the same jurisdiction as district court judges except the interim district court judge would not have had jurisdiction to hear or determine any case or proceeding relating to an offense classified as a Class AA felony. The bill failed to pass.

1993-94 Interim

During the 1993-94 interim, the Legislative Council's Court Services Committee, pursuant to Senate Concurrent Resolution No. 4005, studied the problems associated with the unification of the state's judicial system into a single trial court of general jurisdiction. The committee also studied the funding of court unification and possible changes in filing fees or in the distribution of county court revenues, in order to ensure that a unified, consolidated court system is accomplished.

The interim committee received testimony that identified venue and jury pool selection as areas that may require further legislative action after implementation of court unification. The committee also

received testimony concerning inadequate jury pools in counties with small populations.

The committee recommended Senate Bill No. 2048 to provide that a person cited for a noncriminal traffic violation may appeal to the district court from the initial hearing held before a municipal judge, a magistrate, or other qualified person, including a district judge appointed by the presiding judge of the judicial district. The committee also recommended House Concurrent Resolution No. 3005, which directed a study of the problems associated with the unification of the state's judicial system into a single court of general jurisdiction, with an emphasis on venue statutes. The Legislative Assembly enacted Senate Bill No. 2048 and adopted House Concurrent Resolution No. 3005.

1995 Legislation

In addition to Senate Bill No. 2048, which was recommended by the 1993-94 interim Court Services Committee, the 1995 Legislative Assembly enacted House Bill No. 1002. House Bill No. 1002 changed the fees in civil cases that may be charged by the clerk of district court. The bill also changed the distribution of the fees between the state and the counties. The bill required the clerk of court to pay to the State Treasurer for deposit in the state general fund $14 of the $80 fee for filing a case for decision that is not a small claims action or a petition for dissolution of marriage, annulment, or separation from bed and board. The clerk of court is also required to deposit the $30 fee for filing a motion to modify an order for alimony, property division, child support, or child custody with the State Treasurer for deposit in the state general fund. Effective July 1, 1997, the bill provided that $50 of the $80 fee for filing a case for decision that is not a small claims action and not a petition for dissolution of marriage, annulment, or separation from bed and board must be paid by the clerk of court to the State Treasurer for deposit in the state general fund. In addition, effective July 1, 1997, the bill provided that the $50 fee for filing an answer to a case that is not a small claims action must be deposited in the state general fund. The bill also transferred the fee for filing an answer to a motion to modify an order for alimony, property division, child support, or child custody from the county to the state general fund, effective July 1, 1997.

1995-96 Interim

Judiciary Committee

During the 1995-96 interim, the Legislative Council's Judiciary Committee, pursuant to House Concurrent Resolution No. 3005, studied the problems associated with the unification of the state's judicial system into a single court of general jurisdiction, with emphasis on a review of venue statutes. The committee also studied the possibility of expanding the area for jury selection beyond county lines, the further reduction of judgeships, and the impact of court unification on family law.

The interim committee received testimony from district court judges which indicated that although the reduction in the number of judgeships is on schedule, there are concerns regarding the feasibility of further reductions. The testimony indicated that because of the increasing caseload of judges in urban areas and the extensive travel required by judges in rural areas, any further reduction in the number of judges would put a serious strain on the court system and would require major changes in the delivery of judicial services, especially in rural areas.

On the issue of venue, the interim committee received testimony from attorneys, district judges, and representatives of the judicial districts which indicated that the judges generally support the concept of permitting the court to change the location of pretrial proceedings. The committee also received extensive testimony regarding the issue of granting to the court the authority to change the location of criminal and civil trials. Regarding the issue of jury pool expansion, the testimony indicated that the declining and aging population in some areas of the state have made it difficult to draw an adequate jury pool.

The interim committee recommended two bills that were enacted in 1997. House Bill No. 1063 authorized a court to change the place of a pretrial hearing or proceeding from the location in which the matter was originally to be heard. The bill also authorized a court to change the location of civil and criminal trials unless one of the parties objects to the change of location. House Bill No. 1064 authorized a court to select a jury pool from one or more counties in the judicial district if the population of the county is under 10,000 persons and the court determines that the number of pretrial jurors within the county of venue is inadequate to obtain a fair and impartial jury.

Budget Committee on Government Finance

Also during the 1995-96 interim, the Legislative Council's Budget Committee on Government Finance, pursuant to Section 5 of 1995 House Bill No. 1002, studied the unified court system with emphasis on the distribution of court revenues and the allocation of the costs of the system between the counties and the state. The study included consideration of the allocation of costs and revenues that existed under the existing statutes as well as changes needed to more equitably handle the funding of the unified court system.

The committee reviewed the changes made by the 1995 Legislative Assembly to the fees in civil cases that may be charged by the clerk of district court. Under the 1995 legislation, effective July 1, 1997, all of the revenues generated by the filing fee increases would go to the state general fund instead of being allocated between the counties and the state. The counties would continue to receive the revenues they were receiving from the original filing fees.

The committee also reviewed the court unification funding. Except for the salaries and expenses of the district court clerks and the facility costs, both of which are funded by the counties, district courts are funded through legislative appropriations.

The committee indicated its support for legislation introduced during the 1997 legislative session which would bring the clerks of district courts into the unified judicial system. The committee indicated its support for this due in part to child support collection and disbursement requirement changes in the federal Welfare Reform Act. The Act removes the child support collection and disbursement function from the clerks of district court and requires each state to establish a centralized automated unit for the collection and disbursement of child support. Because of these changes and the decreased workload for the clerks of district courts, the committee concluded it would be an opportune time to bring the clerks into the unified court system.

The committee also indicated its support for legislation introduced during the 1997 legislative session which would provide additional revenues to counties to help provide for adequate court facilities. The committee concluded that it was important to keep the counties involved in the court system in order to maintain their interest in providing adequate court facilities.

The interim committee recommended House Concurrent Resolution No. 3001, which, in part, directed this study.

1997 Legislation

The bills enacted by the 1997 Legislative Assembly concerning this study can be classified in these subject areas: county officers and filing fees; jury selection; venue; and defeated legislation.

County Officers and Filing Fees

House Bill No. 1420 increases the fee for the filing of certain documents with the office of clerk of court from $5 to $10 and increases from $5 to $10 the amount a clerk of court may charge for preparing, certifying, issuing, or transmitting a document.

Senate Bill No. 2002:

1. Provides that counties are to use the provision of NDCC Chapter 11-10.2 (County Officer Combination, Separation, and Redesignation), Chapter 11-10.3 (Multisubdivisions Office Combinations), or Chapter 54-40.3 (Joint Powers Agreement) to combine or share the services of clerks of district court and that the judicial branch budget for the 1999-2001 biennium and future bienniums include funding necessary to efficiently fund the administration of the district courts;
2. Provides that each county must have a register of deeds, and the register of deeds shall perform the functions of the clerk of district court in counties having a population of 6,000 or less, unless the board of county commissioners adopts a resolution separating the offices;
3. Provides that in a county having a population of more than 6,000, the offices of clerk of district court and the register of deeds may be combined into an office of register of deeds if the board of county commissioners adopts a resolution combining the offices; and
4. Changes the distribution of fees for filing civil cases that are not small claims court actions as follows:
   a. Increases from $10 to $15 the amount of each $80 fee which must be deposited in the civil legal services fund;
   b. Provides that any fees collected for deposit in the civil legal services fund which exceed $400,000 in any biennium must be paid to the state treasurer for deposit in the state general fund;
   c. Reduces the amount of the $80 filing fee that must be paid to the state treasurer for deposit in the state general fund from $50 to $45 for all civil cases except petitions for the dissolution of marriage;
   d. Effective April 1, 1999, provides that $65 of the $80 fee for petitions other than dissolution of marriage must be paid to the state treasurer for deposit in the state general fund; and
   e. Effective April 1, 1999, for the filing of petitions for dissolution of marriage, provides that $15 of the $80 fee must be paid to the state treasurer for deposit in the state general fund.

Jury Selection

House Bill No. 1064 permits a court to select jurors from one or more counties in the judicial district in which the court is located if the county of venue has a population of not more than 10,000 persons and the court determines that the number of

prospective jurors within the county of venue is inadequate to obtain a fair and impartial jury.

Venue

House Bill No. 1063 authorizes a court to change the place of a civil or criminal pretrial hearing or proceeding from the location in which the matter was originally to be heard. The bill also authorizes a court to change the location of a civil or criminal trial unless a party files an objection to the change of trial.

Senate Bill No. 2068 authorizes a court to waive a small claims hearing if an election to remove the action to district court is not received within 10 days of service and requires a defendant electing to remove the action to district court to pay the answer filing fee.

1997 Legislation Defeated

Senate Bill No. 2232 would have charged a $30 filing fee for filing a case for decision in district court that would be entirely within the jurisdiction of the small claims court.

Senate Bill No. 2268 would have allowed counties to retain a portion of filing fees by repealing sections 7 and 13 of Chapter 2 of the 1995 Session Laws (1995 House Bill No. 1002).

OFFICE OF CLERK OF DISTRICT COURT

Historically, the clerks of court have been elected county officials whose salaries are set by state law, but are paid by the county. The duties of the clerk are prescribed by state law and the duties of the clerk are essentially performed for the district court. The 1989 Legislative Assembly, in Section 5 of 1989 Session Laws Chapter 138, enacted legislation that provided counties the option of seeking state funding for the clerk of district court. The legislation, codified as North Dakota Century Code Section 11-17-11, provides that "[t]he board of county commissioners of any county may initiate the option to transfer responsibility for funding for the clerk of district court to the state by the filing of written notice to the state court administrator . . . ."

In his January 7, 1997, State of the Judiciary message before the 1997 Legislative Assembly, Chief Justice Gerald W. VandeWalle stated "[b]ecause of lack of funds and various other reasons, we have not proposed funding to implement that law although we were again requested to do so this year."

In Section 6 of Senate Bill No. 2002 (1997), the Legislative Assembly expressed its intent to provide for the state funding of clerks of court. Section 6 provides:

> It is the intent of the fifty-fifth legislative assembly that counties use the provisions of chapters 11-10.2, 11-10.3, and 54-40.3 to combine or share the services of clerks of district court and that the judicial branch budget for the 1999-2001 biennium and future bienniums include funding necessary to efficiently fund administration of the district courts.

Senate Bill No. 2002 (1997) is attached as Appendix "C".

In addition to the issue of state funding of clerks of court, 1997 Senate Bill No. 2002 addressed the issue of the combining or sharing the services of clerks of court. Senate Bill No. 2002 provides that in counties having a population of 6,000 or less, the register of deeds must perform the functions of the clerk of court unless the board of county commissioners adopts a resolution separating the offices. Before the passage of this legislation, in counties with a population of 6,000 or less, the clerk of court was required to be the register of deeds unless the board of county commissioners adopted a resolution separating the offices.

Senate Bill No. 2002 also provides that in a county with a population of more than 6,000, the offices of clerk of court and register of deeds may be combined into an office of register of deeds if the board of county commissioners adopts a resolution to combine the offices.

SUGGESTED STUDY APPROACH

The committee, in its study of the state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification of the state's judicial system, and the effective provision of judicial services to the citizens of this state, may wish to approach this study as follows:

1. Receive testimony from representatives of the judicial branch regarding the status of the required reduction in the number of judgeships.
2. Receive testimony from representatives of the judicial branch as to whether additional legislation is necessary to complete court unification.
3. Receive testimony from representatives of the judicial branch, county representatives, and clerks of the district court regarding the sharing or combining of county offices and the state funding of the clerks of the district court.
4. Develop recommendations and prepare legislation necessary to implement the recommendations.

ATTACH:3

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

HOUSE CONCURRENT RESOLUTION NO. 3001
(Legislative Council)
(Budget Committee on Government Finance)

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of funding the office of the clerk of district court through the unified judicial system.

WHEREAS, the people of this state approved a new judicial article of the Constitution of North Dakota in 1976 establishing a unified judicial system consisting of a Supreme Court, a district court, and such other courts as may be provided by law; and

WHEREAS, subsequent initial efforts resulted in substantial unification of the judicial system through consolidation of county courts by the 1981 Legislative Assembly; and

WHEREAS, the 1991 Legislative Assembly considered further unification of the judicial system, enacting bills that provided a transitional process for establishing a single trial court of general jurisdiction by abolishing county courts and providing for additional district court judgeships but providing for the reduction in the total number of judges from 53 to 42 before January 2, 2001; and

WHEREAS, the 1989 Legislative Assembly enacted North Dakota Century Code Section 11-17-11, which provides a county option to transfer responsibility for funding the office of the clerk of district court to the state; and

WHEREAS, although this option provides a method of alleviating the cost to the counties of supporting district court functions, appropriations have not been provided to fund this option; and

WHEREAS, the feasibility and desirability of state funding of the office of the clerk of district court should be studied to assure that any changes made will benefit the citizens of the state and will serve the interests of the judicial system;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council study the feasibility and desirability of funding the office of the clerk of district court through the unified judicial system; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 19, 1997

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

SENATE CONCURRENT RESOLUTION NO. 4045
(Senator W. Stenehjem)
(Representative Kretschmar)

A concurrent resolution directing the Legislative Council to study state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification, and the effective provision of judicial services to the citizens of this state.

WHEREAS, since 1981, the judicial system has evolved through a series of consolidation refinements culminating in 1991 legislation abolishing county courts, establishing a single level trial court system, and requiring the reduction in total number of judges to 42 by January 2, 2001; and

WHEREAS, clerks of district court are an integral part of the court system but their status as elected county officials poses unique and significant issues concerning the effective operation of the courts in providing judicial services; and

WHEREAS, continued implementation of court unification requires substantive review of issues concerning the means of effectively providing judicial services with reduced judicial resources, including the location of judicial services, facility standards for courthouses, continued refinement of venue requirements, and methods of juror selection; and

WHEREAS, complex issues concerning state funding of the office of clerk of district court and continued implementation of court unification and the impact upon counties, the courts, and judicial services provided to North Dakota citizens are most proficiently considered by a body with the reservoir of knowledge about the issues and reflecting the diverse interests, needs, and allegiances of those affected by those issues;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council study state funding of the office of clerk of district court, the issues and problems associated with the continued implementation of court unification, and the effective provision of judicial services to the citizens of this state; and

BE IT FURTHER RESOLVED, that the Legislative Council consider including representatives of clerks of court, county commissioners, and judges on the interim committee; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Fifty-sixth Legislative Assembly.

Filed March 25, 1997

Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven

SENATE BILL NO. 2002
(Appropriations Committee)
(At the request of the Supreme Court)

AN ACT to provide an appropriation for defraying the expenses of the judicial branch; to provide an exemption from the provisions of section 54-44.1-11 of the North Dakota Century Code; to declare legislative intent; to amend and reenact sections 11-10-02, 11-17-04, 27-02-02, 27-05-03, 27-11-17, 27-11-22, and 27-12-04 of the North Dakota Century Code, relating to the consolidation of the positions of register of deeds and clerk of district court, fees charged by the clerk of district court, salaries of supreme and district court judges, and attorney license fees; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the judicial branch for the purpose of defraying the expenses of its various divisions, for the biennium beginning July 1, 1997, and ending June 30, 1999, as follows:

Subdivision 1.

SUPREME COURT

Salaries and wages	$ 4,644,087
Operating expenses	1,490,790
Equipment	132,700
Judges retirement	337,405
Dispute resolution options	20,000
Total all funds	$ 6,624,982
Less estimated income	8,963
Total general fund appropriation	$ 6,616,019

Subdivision 2.

DISTRICT COURTS

Salaries and wages	$21,518,136
Operating expenses	7,906,299
Clerk of court consolidation funding	100,000
Equipment	654,954
Judges retirement	959,232
Total all funds	$31,138,621
Less estimated income	384,089
Total general fund appropriation	$30,754,532

Subdivision 3.

JUDICIAL CONDUCT COMMISSION AND DISCIPLINARY BOARD

Judicial conduct commission and disciplinary board	$ 460,000
Total all funds	$ 460,000
Less estimated income	225,000
Total general fund appropriation	$ 235,000
Grand total general fund appropriation	$37,605,551
Grand total special funds appropriation	$ 618,052
Grand total all funds appropriation	$38,223,603

SECTION 2. APPROPRIATION. There is hereby appropriated any funds received by the supreme court, district courts, and judicial conduct commission and disciplinary board, not otherwise appropriated, pursuant to federal acts and private gifts, grants, and donations for the purpose as designated in the federal acts or private gifts, grants, and donations for the period beginning July 1, 1997, and ending June 30, 1999.

SECTION 3. TRANSFERS. The director of the office of management and budget and the state treasurer shall make such transfers of funds between line items of appropriation for the judicial branch of government as may be requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff requires the transfers to carry on properly the functions of the judicial branch of government.

SECTION 4. EXEMPTION. The supreme court equipment appropriation contained in section 1 of chapter 24 of the 1993 Session Laws is not subject to section 54-44.1-11, and $75,565 of the unexpended funds from this appropriation are available for the purchase of a photocopier during the biennium beginning July 1, 1997, and ending June 30, 1999.

SECTION 5. COURT AUTOMATION RESTRICTED. The supreme court and the district courts may not require any county to spend county funds on computer equipment relating to the automation of the court system.

SECTION 6. LEGISLATIVE INTENT. It is the intent of the fifty-fifth legislative assembly that counties use the provisions of chapters 11-10.2, 11-10.3, and 54-40.3 to combine or share the services of clerks of district court and that the judicial branch budget for the 1999-2001 biennium and future bienniums include funding necessary to efficiently fund administration of the district courts.

SECTION 7. AMENDMENT. Section 11-10-02 of the North Dakota Century Code is amended and reenacted as follows:

11-10-02. Number and election of county officers. Each organized county, unless it has adopted one of the optional forms of county government provided by the code or has combined or separated the functions of county offices or redesignated offices as elective or appointive pursuant to chapter 11-10.2 or 11-10.3, must have the following officers:

1. One county auditor.
2. One register of deeds ~~in counties having a population of more than six thousand~~.
3. One clerk of the district court, <u>except as otherwise provided by this section</u>.
4. One state's attorney.
5. One sheriff.
6. One county treasurer.
7. One coroner.
8. ~~Repealed by S.L. 1989, ch. 137, § 10, effective January 1, 1993.~~
9. A board of county commissioners consisting of three or five members as provided in this title.

In counties having a population of six thousand or less, the <u>register of deeds shall perform the functions of the</u> clerk of the district court ~~must be the register of deeds~~, unless the board of county commissioners adopts a resolution separating the offices no less than thirty days before petitions for nomination to county offices may first be filed for the primary election. <u>In a county having a population of more than six thousand, the offices of clerk of district court and register of deeds may be combined into an office of register of deeds if the board of county commissioners, following consultation with the supreme court, adopts a resolution combining the offices no less than thirty days before petitions for nominations to county offices may first be filed for the primary election.</u> For a county ~~which~~ <u>that</u> has

properly initiated the option ~~and it is funded by the legislative assembly~~ pursuant to section 11-17-11, and the office of the clerk of court is funded by the legislative assembly, the board of county commissioners may provide for the functions of the register of ~~deeds' services in any appropriate manner~~ deeds, which may include functions of the clerk of district court and other functions as determined by the board of county commissioners. Counties having a population of six thousand or less and exercising the option provided in section 11-17-11 may contract with the state court administrator for the provision of shared funding for register of deeds' services. The required officers must be chosen by the qualified electors of the respective counties at the general election in each even-numbered year, except the register of deeds, county auditor, treasurer, sheriff, state's attorney, and clerk of the district court, who must be chosen in 1966 and every four years thereafter, the members of the board of county commissioners, who must be chosen in the manner prescribed in section 11-11-02, and the county coroner, who must be chosen in the manner prescribed in section 11-19.1-03. The clerk of district court elected pursuant to this section is not subject to election in any future general election that occurs after the start of the state biennium after the county has properly initiated the option and the legislative assembly has provided appropriations pursuant to section 11-17-11.

SECTION 8. AMENDMENT. Section 11-17-04 of the North Dakota Century Code is amended and reenacted as follows:

11-17-04. Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:

   a. For filing a case for decision that is not a small claims action, eighty dollars.

      (1) ~~Ten~~ Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed $400,000 in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

      (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14.

      (3) For all other filings, ~~fifty~~ forty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

   b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.

   c. For filing a small claims action in district court, ten dollars.

   d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, five dollars.

   e. For preparing, certifying, issuing, or transmitting any document, five dollars; or such lesser fee as may be set by a schedule to be promulgated by the state court administrator.

   f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

SECTION 9. AMENDMENT. Section 11-17-04 of the North Dakota Century Code as amended by section 8 of this Act is amended and reenacted as follows:

11-17-04. Fees to be charged by the clerk of the district court.

1. The clerk of the district court shall charge and collect the following fees in civil cases:

   a. For filing a case for decision that is not a small claims action, eighty dollars.

      (1) Fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the civil legal services fund. Any fees collected under this paragraph which exceed $400,000 in any biennium must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

      (2) For the filing of a petition for dissolution of marriage, annulment, or separation from bed and board, fifty dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the displaced homemaker account created by section 14-06.1-14 and fifteen dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

      (3) For all other filings, ~~forty-five~~ sixty-five dollars of this fee must be paid by the clerk of court to the state treasurer for deposit in the state general fund.

   b. For filing an answer to a case that is not a small claims action, fifty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund in the state treasury.

   c. For filing a small claims action in district court, ten dollars.

   d. For filing any matter authorized to be filed in the office of the clerk of court other than under subdivision a, b, or c, five dollars.

   e. For preparing, certifying, issuing, or transmitting any document, five dollars; or such lesser fee as may be set by a schedule to be promulgated by the state court administrator.

   f. For filing a motion or an answer to a motion to modify an order for alimony, property division, child support, or child custody, thirty dollars. The clerk shall deposit this fee with the state treasurer for deposit in the general fund of the state treasury.

2. Section 27-01-07 applies to fees charged under this section. The clerk of court may not charge or collect any fee, prescribed by this or any other section, from the state or an agency thereof or from a political subdivision or agency thereof.

SECTION 10. AMENDMENT. Section 27-02-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-02-02. Salaries of judges of supreme court. The annual salary of each judge of the supreme court is ~~seventy-five~~ seventy-nine thousand ~~nine~~ seven hundred ~~thirty-six~~ seventy-one dollars through June 30, ~~1996~~ 1998, and ~~seventy-seven~~ eighty-two thousand ~~four~~ one hundred ~~forty-eight~~ sixty-four dollars thereafter. The chief justice of the supreme court is entitled to receive an additional two thousand ~~one~~ two hundred ~~thirty-six~~ fifty dollars per annum through June 30, ~~1996~~ 1998, and two thousand ~~one~~ three hundred ~~eighty-four~~ eighteen dollars per annum thereafter.

SECTION 11. AMENDMENT. Section 27-05-03 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

27-05-03. Salaries and expenses of district judges. The annual salary of each district judge is ~~seventy~~ seventy-three thousand ~~sixty-eight~~ six hundred sixteen dollars through June 30, ~~1996~~ 1998, and ~~seventy-one~~ seventy-five thousand ~~four~~ eight hundred ~~seventy-two~~ twenty-four dollars thereafter. Each district judge is entitled to travel expenses including mileage and subsistence while engaged in

the discharge of official duties outside the ~~county~~ city in which the judge's chambers are located. The salary and expenses are payable monthly in the manner provided by law. A presiding judge of a judicial district is entitled to receive an additional one thousand ~~six~~ seven hundred ~~fifty-six~~ forty-three dollars per annum, through June 30, ~~1996~~ 1998, and one thousand ~~six~~ seven hundred ~~ninety-two~~ ninety-five dollars thereafter.

SECTION 12. AMENDMENT. Section 27-11-17 of the North Dakota Century Code is amended and reenacted as follows:

27-11-17. Fee payable by all applicants for admission to bar - Disposition of fees. The state bar board ~~shall~~ is entitled to receive a fee to be determined ~~from time to time~~ by the state bar board with the approval of the supreme court of an amount not to exceed one hundred fifty dollars from each applicant for admission to the bar of this state who submits to examination by the state bar board and ~~shall receive~~ a fee to be determined ~~from time to time~~ by the state bar board with the approval of the supreme court of an amount not to exceed ~~two~~ four hundred dollars from each applicant for admission to the bar of this state who seeks admission upon motion in accordance with state law or supreme court rule. All ~~such~~ fees received must be deposited and disbursed in accordance with section 54-44-12.

SECTION 13. AMENDMENT. Section 27-11-22 of the North Dakota Century Code is amended and reenacted as follows:

27-11-22. Annual licenses to practice law and to serve on certain courts - Requirement - Issuance - Fees. Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law, or who is to serve as a judge of a court of record, shall secure an annual license from the state bar board on or before January first of each year. The secretary-treasurer of the board shall issue the license upon compliance with the rules adopted or approved by the supreme court to assure the professional competence of attorneys, and upon payment of a fee established by the state bar association at its annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed ~~two~~ four hundred ~~fifty~~ dollars. The license is valid for the calendar year for which it is issued. Issuance of an annual license to practice law may not be conditioned upon payment of any surcharge, assessment, or fee in excess of the maximum fee established by this section. This section does not prohibit imposition of a reasonable fee for filing and processing reports of compliance with continuing education requirements.

SECTION 14. AMENDMENT. Section 27-12-04 of the North Dakota Century Code is amended and reenacted as follows:

27-12-04. Moneys payable from state bar fund to state bar association. The state bar association of North Dakota, out of the state bar fund, ~~annually shall~~ must receive ~~eighty~~, for operation of the lawyer discipline system, fifty dollars of each license fee beginning January 1, 1998, and seventy-five dollars of each license fee beginning January 1, 1999. Eighty percent of the remaining amount of the annual license fees paid by licensed members~~,~~ must be paid to the state bar association for the purpose of ~~paying for the printing~~ administering and ~~distribution of the annual report and proceedings of said~~ operating the association ~~and for the payment of other necessary expenses of the association~~. ~~Such sum~~ These sums must be paid quarterly to the association by the state bar board upon vouchers drawn in accordance with section 54-44-12.

SECTION 15. EFFECTIVE DATE. Section 9 of this Act becomes effective on April 1, 1999.

Approved April 17, 1997
Filed April 17, 1997